

UNITED STATES DISTRICT COURT  
for the  
Middle District of Tennessee

United States of America  
v.  
MICHAEL NELSON, JAMES CLEMONS

Case No. 22-mj-1083

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 16, 2022 in the county of Montgomery in the  
Middle District of Tennessee, the defendant(s) violated:

Code Section

Offense Description

Title 18 U.S.C. Section 922(g)(1)

Possession of a firearm by a convicted felon

This criminal complaint is based on these facts:

See Attached Affidavit of ATF SA Michael J. Babiarz

☒ Continued on the attached sheet.

/s/Michael J. Babiarz

Complainant's signature

ATF SA Michael J. Babiarz

Printed name and title

Sworn to me remotely by telephone.

Date: July 8, 2022

City and state: Nashville, Tennessee

Barbara D. Holmes  
Judge's signature

United States Magistrate Judge Barbara D. Holmes

Printed name and title



## **STATEMENT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Michael J. Babiarz, having been duly sworn, hereby depose and swear to the following:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) and have been so employed since March 2016. I am currently assigned to the Nashville Field Division, Nashville VI Field Office. As a Special Agent for the ATF, I investigate various violations of federal law, to include firearms and drug offenses.

2. This affidavit is submitted in support of a Criminal Complaint and seeking arrest warrants to be issued for Michael NELSON and James CLEMONS, for the offense of possession of a firearm by a convicted felon, in violation of Title 18, United States Code Sections 922(g)(1) and 924.

3. The facts in this affidavit are based on first-hand knowledge, my training and experience, information learned during this investigation from other agents and other law enforcement officers, and my review of records and reports relating to the investigation. This affidavit is intended to show merely that there is sufficient probable cause for the arrest of NELSON and CLEMONS, and does not set forth all of my knowledge about this matter.

4. On or about June 16, 2022, Clarksville Police Department (CPD) Officers responded to a call for service relating to an aggravated assault at Bob’s Discount Tobacco and Beer located at 505 Providence Boulevard in Clarksville, Tennessee, which is within the Middle District of Tennessee. Officers spoke with the victim of the assault, “JD,” who stated the following: A black male driving an older model gray van pulled up to JD while he was standing in the in the parking lot of Bob’s Discount Tobacco and Beer. At the time, JD knew this individual only by his nickname, “Mississippi.” JD stated that “Mississippi” was wearing a white tank top, jeans, and glasses. “Mississippi” exited the driver’s door of the van, approached JD with a black handgun in

his hand, and attempted to strike JD with the firearm, however JD was able to block the strike. “Mississippi” then backed up and discharged the firearm once at JD, missing him. During the assault “Mississippi” told JD, “I’m going to kill you.” JD then ran away, uninjured. “Mississippi” returned to the gray van and drove off. JD further described the van as having damage to the front of the vehicle and missing the front bumper. CPD Officers recovered one (1) fired 9mm shell casing from the scene.

5. A short time later, CPD officers in the area observed the above-described gray van and conducted a traffic stop on the vehicle in the area of 405 Beach Street in Clarksville. The driver of the vehicle was identified as Michael NELSON. NELSON was wearing a white tank top, jeans, and glasses. The front passenger of the vehicle was identified as James CLEMONS. A third individual identified as “JU” was also a passenger in the vehicle. Due to the original nature of the call for service – an aggravated assault involving a firearm – CPD officers conducted a pat down of all occupants in the vehicle. During the pat down of CLEMONS, CPD officers located a handgun in his front waistband. CLEMONS was detained and a Ruger pistol, Model: EC9S, Caliber: 9mm Luger was removed from his front waistband.

6. CPD Officers provided CLEMONS with his *Miranda* warnings and interviewed him. CLEMONS stated when officers initiated the traffic stop on the vehicle, NELSON – the driver – gave him the Ruger pistol and stated, “I can’t have this you can.” CLEMONS took the gun from NELSON and placed it in his waistband. CLEMONS stated he believed it was lawful for him to carry a firearm.

7. CPD Officers conducted a show-up (a show-up is a law enforcement tool utilized for a victim to visually identify a suspect) between JD and NELSON. JD positively identified NELSON as the person he knows as “Mississippi,” and the person who had just shot at him.

8. Officers then obtained video surveillance footage of the shooting incident from Bob's Discount Tobacco and Beer. A review of the footage shows an older model gray van pull up to the parking lot. The driver of the vehicle exits and is wearing a white tank top and jeans. Because of the angle and quality of the video footage, it is not clear if the driver is wearing glasses. The driver of the vehicle is holding what appears to be a black handgun and attempts to strike the victim. The driver then backs away from the victim and appears to discharge the firearm once. The driver briefly chases after the victim on foot before returning to the vehicle and driving away. Based on his physical characteristics and clothing, the driver depicted in the surveillance video appears to be NELSON.

9. An ATF Firearms Interstate Nexus Expert analyzed the firearm described above. The Expert determined that the Ruger pistol, Model: EC9S, Caliber: 9mm Luger, is a firearm, as defined by Title 18 U.S.C. § 921(a)(3), and that the firearm was not manufactured in the state of Tennessee; and, therefore, at some point in time, it traveled in and affected interstate or foreign commerce.

10. On March 15, 2021, NELSON pled guilty to the offense of "Possession Weapon-Convicted Felon," and "Agg Assault- Weapon Use or Display," in the Circuit Court of Montgomery County, Tennessee, and was sentenced to eight years and three years, respectively, in the custody of the Tennessee Department of Corrections.

11. On May 23, 2007, CLEMONS pled guilty to the offense of "Possession of Controlled Substance- Cocaine 1<sup>st</sup> Degree," in the Circuit Court of Christian County, Kentucky, and was sentenced to 5 years probation. Possession of a controlled substance in the first degree is a Class D felony in Kentucky and punishable by up to three years imprisonment.

12. Based on the foregoing facts, I submit that there is probable cause to believe that NELSON and CLEMONS each possessed a firearm while knowing they were previously convicted of a crime punishable by imprisonment for a term exceeding one year, in violation of Title 18, United States Code Sections 922(g)(1) and 924, and I request that warrants be issued for their arrest.